

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

WILLIAM WORTH,

Petitioner,

v.

EDWARD SHELDON, WARDEN,

Respondent.

Case No. 2:13-CV-775

Judge Sargus

Magistrate Judge King

ORDER

On May 6, 2014, the United States Magistrate Judge recommended that this habeas corpus action under 28 U.S.C. § 2254 be dismissed as either procedurally defaulted or without merit. *Report and Recommendation*, ECF 13. On July 1, 2014, the Court adopted that recommendation without objection and dismissed the action. *Judgment*, ECF 19. This matter is now before the Court on Petitioner's July 23, 2014,¹ objections to the Magistrate Judge's recommendation and request to vacate the *Judgment*. *Objection*, ECF 20.

This case involves Petitioner's conviction, after a jury trial in the Franklin County Court of Common Pleas, on charges of aggravated burglary, felonious assault, three counts of rape, kidnapping, and six firearm counts. The *Petition*, ECF 1, claims that the evidence was constitutionally insufficient to sustain the convictions on the firearm specifications, that the *Indictment* failed to provide sufficient notice of the firearm specifications, and that the trial court improperly imposed consecutive terms of incarceration (claim one); that Petitioner was denied a fair trial because of prosecutorial misconduct (claim two); that the trial court's sentence was

¹ Petitioner executed his *Objection* on July 18, 2014. ECF 20, PageID#1182.

vindictive (claim three); that the trial court abused its discretion in its evidentiary rulings (claim four); and that Petitioner was denied the effective assistance of counsel (claim five). The Magistrate Judge recommended dismissal of portions of claim one and claims four and five as procedurally defaulted and dismissal of the remainder of Petitioner's claims as without merit. *Report and Recommendation*.

Petitioner was thereafter granted an extension of time - to July 20, 2014 – in which to file objections to the *Report and Recommendation*. *Order*, ECF 17.² However, final judgment dismissing the case was entered on July 1, 2014. As noted, Petitioner's objections were signed on July 16, and filed on July 23, 2014. The Court accepts Petitioner's objections as timely filed.

Under these circumstances, the July 1, 2014 final judgment, *Judgment*, ECF 19, is **VACATED**. The Court will consider, *de novo*, Petitioner's objections to the *Report and Recommendation*. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b).

Petitioner objects to all of the Magistrate Judge's recommendations. He again argues that he presents meritorious claims for relief, that the state courts committed "plain error" and that the Magistrate Judge erroneously recommended dismissal of his claims as either procedurally defaulted or without merit. *Objection*, ECF 20.

Petitioner offers no arguments not already presented to and addressed by the Magistrate Judge. For the reasons detailed in the *Report and Recommendation*, the Court agrees that all of Petitioner's claims are either procedurally defaulted or without merit.

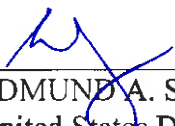
Petitioner's *Objection*, ECF 20, is **DENIED**. The *Report and Recommendation*, ECF 13, is again **ADOPTED** and **AFFIRMED**. The claims asserted in the *Petition* are either procedurally defaulted or without merit.

This action is **DISMISSED**.

² The docket, however, erroneously indicates that objections were due "6/20/14." ECF 17.

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT**.

8-5-2014



EDMUND A. SARGUS, JR.
United States District Judge